

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

FEDERAL TRADE COMMISSION,

Plaintiff,

v.

ZAAPPAAZ LLC, also d/b/a Wrist-Band.com,
WBpromotion.com, CustomLanyard.net, and WB
Promotions; and

AZIM MAKANOJIYA, individually and as an
officer of ZAAPPAAZ LLC,

Defendants.

Civil Matter No. 4:20-cv-02717

**[PROPOSED] ORDER GRANTING THE FEDERAL TRADE COMMISSION'S
RULE 56(G) MOTION TO DEEM FACTS ESTABLISHED AND
NARROW THE ISSUES FOR TRIAL**

The Court hereby **GRANTS** the FTC's motion in limine to exclude the following
evidence from trial:¹

Shipping Records from Defendants' Third-Party Carriers

1. PTX 60- DHL Shipment Records DHL0000006 (1). Xlsx (DHL
shipment/delivery info)
2. PTX 62- DHL Shipment Records FTC0004573 (1).xlsx (DHL shipment/delivery
info)
3. PTX65-USPIS Shipping and Delivery Information, FTC0004938 (USPIS
shipment/delivery info)
4. PTX 68-USP Tracking Information UPS_0000654 (1).xlxs (UPS

¹ While the exhibits are identified by names provided by Defendants, the FTC provided the parenthetical
information describing them.

shipment/delivery info)

5. PTX86 FedEX Express Shipment and Delivery Information FedEx-Express_00093708 (FedEx Express shipment/delivery info)
6. PTX87 FedEx Express Shipment and Delivery Information FTC0003086 (1) (FedEx Express shipment/delivery info)
7. PTX89-FedEx Ground Pickup and Delivery Information Fedex-Ground_0001
8. PTX91- FedEx Ground Pickup Information FTC0004654.xlsx (FedEx Ground pickup dates spreadsheet)
9. PXT92-Fed Ex Ground Trailer Pickup Dates FTC0004686.xlsx (FedEx Ground trailer pickup dates spreadsheet)
10. PTX94-Fed Ex Freight Shipment and Delivery Information FTC0004707.xlsx (FedEx Freight shipment/delivery info)
11. PTX95-FedEx Freight Shipment and Delivery Information FTC0004678 (1).xlsx (FedEx Freight shipment/delivery info)

Payment and Refund Records from Defendants' Third-Party Payment Processors

12. PTX21- April 23, 2021 Stripe Refund Information Stripe_000001(1).xlsx (Stripe Refund Information)
13. PTX 48-Cause No. 4:20-CV-02717 Document 100—48 Filed on 10/26/2022 (Oct. 15, 2020 Email Chain with Empire PayTech re chargeback report for the year)
14. Zaappaaz Exhibit 48 (Oct. 15, 2020 Email Chain with Empire PayTech re chargeback report for the year)
15. PTX49-2020 Chargeback Report(1).xlsx (2020 Chargeback report)
16. PTX 84-Stripe Refund Spreadsheet Zaappaaz 0020791 (1).Xlsx (Stripe Refund Spreadsheet)
17. PTX96-Amazon Chargeback Transactions Amazon_0000002 (1).xlsx (Amazon chargeback transactions)
18. PTX97-Amazon Chargeback Transactions Amazon_0000098 (1).xlsx (Amazon chargeback transactions)
19. PTX 102-Cause No. 4:20-CV-02717 Document 100—102 Filed on 10/26/2022 (Dec. 18, 2020 Amazon Certificate of Records) (
20. PTX 103-Cause No. 4:20-CV-02717 Document 100—103 Filed on 10/26/2022 (July 28, 2020 Amazon Payments Inc. Certification of Records of Regularly Conducted Activity)

Defendants' Order, Shipping, and Delivery Records

21. PTX 57- Master Chart Zaappaaz 0020596 (1).xlsx (comprehensive chart with order, shipping, delivery, revenue, and refund information)
22. Zaappaaz_0020596.xlsx (comprehensive chart with order, shipping, delivery, revenue, and refund information)
23. Zaappaaz_0020596 cs. PX 57 Master Chart Zaappaaz 0020596-Merged Diffs.xlsx (comprehensive chart with order, shipping, delivery, revenue, and

refund information)
24. Delivered 307 Orders.xlsx

Declarations from the FTC's Data Analyst and Forensic Accountant Detailing How They Conducted the Calculations

25. PXT 99-Cause No. 4:20-CV-02717 Document 100—99 Filed on 10/26/2022 (Declaration of Anne Miles)
26. PTX 100-Cause No. 4:20-CV-02717 Document 100—100 Filed on 10/26/2022 (Rufus Jenkins Declaration)

Declarations from Defendants' Third-Party Carriers

27. PXT 69-Cause No. 4:20-CV-02717 Document 100—69 Filed on 10/26/2022 (USPIS Declaration)
28. PXT 98-Cause No. 4:20-CV-02717 Document 100—98 Filed on 10/26/2022 (DHL Declaration)
29. PTX 114-Cause No. 4:20-CV-02717 Document 100—114 Filed on 10/26/2022 (UPS Declaration)

Deposition Testimony Designations from Defendants' Third-Party Carriers and the FTC's Forensic Accountant

30. FedEx Express [Tracy Chapell] Deposition Designations
31. FedEx Ground [David Muse] Deposition Designations
32. FedEx Freight [Floyd Smith] Deposition Designations
33. Rufus Jenkins Deposition Designations

Proposed Trial Testimony

34. FTC's Forensic Accountant Rufus Jenkins's Testimony
35. Jillian Scherrer, counsel for Defendants
36. Butch Boyd, counsel for Defendants

Expert Rosemary Coates-Related Evidence

37. COATES_0000144 (List of Articles on Shipping Delays due to COVID-19)

IT IS SO ORDERED.

SIGNED in Houston, Texas, on this _____.

KEITH P. ELLISON
UNITED STATES DISTRICT JUDGE